

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Stephen Abrams-Downey	Team: Squad #1	CCRB Case #: 201402732	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 03/16/2014 2:55 AM	Location of Incident: 17th Precinct Stationhouse	Precinct: 17	18 Mo. SOL 9/16/2015	EO SOL 9/16/2015	
Date/Time CV Reported	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 03/21/2014 4:25 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. LT Joseph Tompkins	00000	939587	017 PCT
2. POM Vincent Diforte	20156	940093	017 PCT
3. POM Thomas Park	31403	922940	017 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Matthew Randlov	14804	943718	017 PCT
2. POM Robert Admirand	25335	929595	017 PCT
3. POM Michael McIntosh	03077	943551	017 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Vincent Diforte	Discourtesy: PO Vincent Diforte spoke discourteously to § 87(2)(b) and § 87(2)(b)	
B.LT Joseph Tompkins	Force: Lt. Joseph Tompkins used physical force against § 87(2)(b)	
C.POM Vincent Diforte	Off. Language: PO Vincent Diforte made remarks to § 87(2)(b) based upon ethnicity.	
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		

Case Summary

On March 18, 2014, § 87(2)(b) filed this complaint by phone with IAB. On March 21, 2014, the complaint was referred to the CCRB via IAB Ref. No. 14-9626. § 87(2)(b) also filed this complaint in person at the CCRB on April 16, 2014. On March 16, 2014, § 87(2)(b) and § 87(2)(b) went to the 17th Precinct Stationhouse for information about an acquaintance who had been arrested. They encountered several officers from the 17th Precinct and the following allegations resulted:

- **Allegation A: Discourtesy – PO Vincent Diforte spoke discourteously to** § 87(2)(b) and § 87(2)(b) § 87(2)(g)
- **Allegation B: Force – Lt. Joseph Tompkins used physical force against** § 87(2)(b) § 87(2)(g)
- **Allegation C: Offensive Language – PO Vincent Diforte made remarks to** § 87(2)(b) **based on ethnicity.** § 87(2)(g)
- § 87(4-b), § 87(2)(g)
- § 87(4-b), § 87(2)(g)

This case was not eligible for mediation because § 87(2)(b) and § 87(2)(b) were arrested during the incident. On October 20, 2014, this case was reassigned from Inv. Amarylis Rivera to the undersigned.

Results of Investigation

Civilian Statement(s)

Complainant/ Victim: § 87(2)(b)

- § 87(2)(b)

CCRB Testimony

§ 87(2)(b) was interviewed at the CCRB on April 16, 2014 (Encl. 10B-D). On March 16, 2014, at approximately 2:55 a.m., § 87(2)(b) her sister, § 87(2)(b) her son, § 87(2)(b) and her son's friend, § 87(2)(b) were on East 53rd Street and Second Avenue, in Manhattan. § 87(2)(b) observed an officer, identified by § 87(2)(b) as PO Robert Admirand, arrest § 87(2)(b)'s brother, § 87(2)(b). § 87(2)(b) approached PO Admirand and asked what had happened. He told her to go to the precinct for further information regarding § 87(2)(b) arrest.

At approximately 3:10 a.m., § 87(2)(b) and § 87(2)(b) arrived at the 17th Precinct Stationhouse. PO Admirand told them to wait because § 87(2)(b) processing would take an hour. Several unidentified officers then instructed all four individuals to leave the precinct. § 87(2)(b) approached the front desk and spoke with the T/S operator, identified by § 87(2)(b) as PO Michael Macintosh, to inform him that they were waiting to speak to PO Admirand.

After five minutes, § 87(2)(b) heard § 87(2)(b) call out to her. § 87(2)(b) turned around and saw her sister in handcuffs. § 87(2)(b) did not know why § 87(2)(b) had been arrested. Unidentified officers then yelled and told § 87(2)(b) and § 87(2)(b) to leave the precinct. § 87(2)(b) initially refused to do so, but § 87(2)(b) and § 87(2)(b) complied and walked towards the exit.

Four officers, including PO Matthew Randlov and PO Thomas Park, then ran and pushed § 87(2)(b) and § 87(2)(b) aside to gain access to the door through which § 87(2)(b) was walking. The officers pushed § 87(2)(b) on the ground, and jumped on top of him. § 87(2)(b) was face down on the ground. PO Randlov placed his knees on § 87(2)(b)'s back and handcuffed him. An officer, identified by § 87(2)(b) as Lt. Joseph Tompkins, walked to § 87(2)(b) and kicked him once in his right ribs. The officers then lifted § 87(2)(b) from the floor and walked him into the stationhouse.

§ 87(2)(b) and § 87(2)(b) had left the stationhouse and observed the incident from across the street. Three officers approached them and ordered them to move. PO Macintosh then exited the precinct and handcuffed § 87(2)(b) but did not explain why she was being arrested. Other officers handcuffed § 87(2)(b), § 87(2)(b) and § 87(2)(b) were then led back to the stationhouse and put inside holding cells. § 87(2)(b) and § 87(2)(b) were processed and were released the following morning at approximately 11:30 a.m.

Victim: § 87(2)(b)

- § 87(2)(b)

CCRB Testimony

§ 87(2)(b) provided a phone statement on August 11, 2014 (Encl. 11A). On March 16, 2014, § 87(2)(b) and § 87(2)(b) went to the 17th Precinct stationhouse, in Manhattan, to obtain information about the arrest of § 87(2)(b)'s brother, § 87(2)(b). All four individuals were seated on a bench inside the stationhouse.

Several officers told them to leave the stationhouse. § 87(2)(b) and the other individuals were walking towards the exit when a uniformed officer, identified by the investigation as PO Vincent Diforte, told them to “leave this fucking house.” He then handcuffed § 87(2)(b) and led her to a corner of the stationhouse. § 87(2)(b) and § 87(2)(b) all exited the stationhouse and a group of officers followed them. § 87(2)(b) remained inside the building and did not observe what took place outside.

Several minutes later, § 87(2)(b) returned to the stationhouse in handcuffs. § 87(2)(b) saw a handprint on § 87(2)(b)'s face and his white shirt was dirty. § 87(2)(b) asked the officers why they had kicked him. PO Diforte told him to “shut the fuck up” and said that he was a “fucking spic.” PO Diforte also asked § 87(2)(b) if he was “fucking stupid” and “fucking retarded.”

Attempts to Contact Civilians

The initial IAB complaint provided § 87(2)(b)'s home address, but no phone number. Letters were sent to § 87(2)(b) on April 4, 2014 and April 11, 2014 and these were not returned to the CCRB by the US Postal Service. § 87(2)(b)'s arrest report confirmed his address, but did not provide any additional contact information. Searches of Lexis Nexis, the Whitepages, and DMV records did not provide any additional contact information for § 87(2)(b).

During her CCRB interview, § 87(2)(b) provided a home address and phone number for § 87(2)(b). On May 1, 2014, a call was placed to § 87(2)(b) and he scheduled an interview for May 14, 2014. § 87(2)(b) did not appear for this interview and a missed appointment letter was sent to him. § 87(2)(b) did not respond to subsequent contact attempts and a final letter was sent to him on October 9, 2014. These letters were not returned to the CCRB by the US Postal Service.

NYPD Statement(s):

Subject Officer: LT. JOSEPH TOMPKINS

- *Lt. Tompkins, § 87(2)(b) old at the time of the incident, is a 6'1", 350 pound white male with blond hair and blue eyes.*
- *Lt. Tompkins worked from 11:00 p.m. on March 16, 2014 until 7:45 a.m. the following day. He was the patrol supervisor with PO Christopher Sasso. Lt. Tompkins was in uniform and assigned to a marked car, number 8826.*

Memo Book

Lt. Tompkins did not prepare any memo book entries for this incident (Encl. 12A-B).

CCRB Testimony

Lt. Joseph Tompkins was interviewed at the CCRB on October 29, 2014 (Encl. 12C-D). At approximately 2:00 a.m. on March 16, 2014, Lt. Tompkins was on patrol when he received a call that an individual had been arrested for smoking marijuana. He could not recall which officer made this arrest. Lt. Tompkins went to the stationhouse to oversee the processing of the arrest. This man was lodged in the holding cells and Lt. Tompkins returned to the front of the stationhouse, where he stood behind the main desk. Four individuals, § 87(2)(b) and § 87(2)(b) entered the stationhouse and spoke to PO Michael McIntosh, who was the T/S Operator. These individuals inquired about the status of the man who had been arrested. They were upset, yelled loudly, and appeared to be intoxicated as they had bloodshot eyes and smelled of alcohol.

After approximately five minutes, Lt. Tompkins told these individuals to leave the stationhouse. He informed them that the man who had been arrested would be released with a Desk Appearance Ticket. Multiple other officers, including PO McIntosh, PO Matthew Randlov, and PO Vincent Diforte, ordered them to leave the stationhouse as well. Lt. Tompkins did not hear PO Diforte tell them to “leave this fucking house.” The four individuals disregarded the officers’ orders and remained inside the stationhouse. Lt. Tompkins, PO Diforte, and PO Randlov all approached the individuals to usher them out of the building. Lt. Tompkins placed his hand on one individual’s shoulder to guide him or her out of the stationhouse.

§ 87(2)(b) then grabbed either PO Randlov or PO Diforte by the arm and attempted to push him away. Lt. Tompkins took hold of § 87(2)(b)’s hands and walked her behind a gate in the stationhouse, where PO Randlov handcuffed her. § 87(2)(b) and § 87(2)(b) left the stationhouse after § 87(2)(b)’s arrest, but all three returned after approximately ten minutes and again yelled at officers and other civilians. Lt. Tompkins instructed them to leave the building for a second time. When they refused, he, PO Randlov, and PO Diforte again approached the individuals to escort them outside. § 87(2)(b) then pushed either PO Randlov or PO Diforte and ran outside the building, towards Third Avenue.

PO Diforte pursued § 87(2)(b) and was the first officer to catch up to him. When Lt. Tompkins arrived, PO Diforte and § 87(2)(b) were engaged in a struggle on the ground. § 87(2)(b) was on top of PO Diforte, sitting upright with his knees on the street. § 87(2)(b) pushed his hands down towards PO Diforte, while the officer held § 87(2)(b) by the wrists. Lt. Tompkins kicked § 87(2)(b) in the chest one time with his right leg. This caused him to fall to the ground on his back, off of PO Diforte. Lt. Tompkins did not believe that he could get § 87(2)(b) off PO Diforte by lifting him up or pushing him. Several other officers, including PO Randlov, arrived at the scene and handcuffed § 87(2)(b), § 87(2)(b) and § 87(2)(b) stood in the street, approximately five feet away from the incident. They yelled at the officers, but Lt. Tompkins did not recall what they said or if they attempted to interfere with § 87(2)(b)’s arrest in any way.

Lt. Tompkins and the other officers brought § 87(2)(b) inside the stationhouse and processed him. While lodging § 87(2)(b) in the holding cell, Lt. Tompkins did not hear PO Diforte tell § 87(2)(b) to “shut the fuck up,” refer to him as a “fucking spic,” or ask if he was “fucking stupid” or “fucking retarded.” After approximately ten minutes, Lt. Tompkins left the stationhouse to resume patrol. He returned to the stationhouse approximately thirty minutes later. § 87(2)(b) and § 87(2)(b) had both been arrested and lodged in the holding cells by this time. Lt. Tompkins did not witness their arrests personally.

Subject Officer: PO VINCENT DIFORTE

- *PO McIntosh, § 87(2)(b) old at the time of the incident, is a 5’10”, 220 pound white male with brown hair and brown eyes.*
- *PO Diforte worked from 11:15 p.m. on March 15, 2014 until 7:50 the following day. He was assigned to Sector GH with PO Matthew Randlov. PO Diforte was in uniform and assigned to a marked police car, number 4140.*

Memo Book

According to PO Diforte’s memo book, PO Randlov placed four individuals under arrest at 2:50 a.m. (Encl. 13A-B).

CCRB Testimony

PO Diforte was interviewed at the CCRB on October 30, 2014 (Encl. 13C-D). § 87(2)(g) At 2:35 a.m. on March 16, 2014, PO Diforte and his partner, PO Randlov, arrested an individual and transported him to the 17th Precinct Stationhouse, in Manhattan. § 87(2)(b) and § 87(2)(b) arrived at the stationhouse. PO Diforte repeatedly told the four civilians to leave the stationhouse because they were yelling loudly and appeared to be intoxicated. PO Diforte did not recall if he told them to “leave this fucking house.”

PO Diforte then approached one of the men and planned to arrest him for disorderly conduct because he refused to comply with his orders. This man exited the stationhouse and one of the women held onto the front door to prevent PO Diforte from following him outside. PO Diforte pushed this woman aside and left the building. PO Diforte pursued the man in the direction of Third Avenue and caught up to him after approximately half a block. PO Diforte grabbed the man by his hands and pushed him to the ground. They struggled on the street and rolled on the ground for approximately one minute and the man resisted arrest by attempting to pull his hands away from the officer.

PO Diforte placed one handcuff on the man, who was ultimately arrested after multiple other officers, including Lt. Joseph Tompkins, arrived on the scene. PO Diforte was focused on the civilian and he did not see what actions these officers took. He did not see Lt. Tompkins or any other officer kick the man in the ribs. Once the man was handcuffed, PO Diforte and other officers walked him into the stationhouse. PO Randlov processed this arrest. PO Diforte did not tell him to “shut the fuck up,” refer to him as a “fucking spic,” or ask if he was “fucking stupid” or “fucking retarded.” PO Diforte did not participate in the arrests of any other individuals.

Subject Officer: PO THOMAS PARK

- *PO Park, § 87(2)(b) old at the time of the incident, is a 5’8”, 200 pound white male with brown hair and blue eyes.*
- *PO Park worked from 11:15 p.m. on March 15, 2014 until 7:50 a.m. the following day. He was assigned to sector patrol. PO Park was in uniform and assigned to a marked motor vehicle. PO Park did not recall the number of his vehicle or the name of his partner.*

Memo Book

PO Park did not have his memo book for the date of this incident when he came to the CCRB for his interview. Following his CCRB interview, PO Park spoke with officers in MAS and an additional request was placed for his memo book. To date, the memo book has not been received. A call was placed to the 17th Precinct on December 30, 2014. However, PO Park was not available at this time.

CCRB Testimony

PO Thomas Park was interviewed at the CCRB on November 5, 2014 (Encl. 17A-B). At approximately 2:10 a.m. on March 16, 2014, PO Park entered the 17th Precinct Stationhouse, in Manhattan. PO Park observed a group of four individuals standing near the T/S operator’s desk. One woman yelled loudly that her son had been arrested. PO Park walked near this group of people to reach the back of the stationhouse, but he did not have any interactions with them.

Multiple officers, including Lt. Joseph Tompkins and PO Matthew Randlov, stood near the desk. These officers told the individuals to leave the stationhouse. PO Park did not hear PO Diforte tell them to “leave this fucking house.” When they refused to comply with this command, Lt. Tompkins informed them that they would be arrested for disorderly conduct. One of the men yelled at the officers and ran outside of the stationhouse. Lt. Tompkins, PO Randlov, PO Park, and other officers pursued him to the street. By the time PO Park was outside, the man was on the ground and had been handcuffed. PO Park did not observe this man’s arrest and did not know if a physical struggle had taken place. PO Park did not see Lt. Tompkins kick the man in the ribs while placing him under arrest. He did not hear this man complain of any injuries at any point.

A group of officers then led the man back inside the stationhouse and processed his arrest. PO Park went inside as well, but he did not have any interactions with the man who had been arrested. PO Park did not hear PO Diforte tell this man to “shut the fuck up,” refer to him as a “fucking spic,” or ask if he was “fucking stupid” or “fucking retarded.” Two of the other civilians then returned to the stationhouse and yelled at the officers again. Lt. Tompkins told them to leave the stationhouse for a second time. These individuals did not comply with this command and they were both placed under arrest. PO Park did not participate in these arrests. PO Park left the stationhouse while these individuals were being processed and did not have any further interactions with them.

Witness Officer: PO MATTHEW RANDLOV

- *PO Randlov, § 87(2)(b) old at the time of the incident, is a 5’9”, 210 pound white male with brown hair and brown eyes.*
- *PO Randlov worked the same tour and assignment as PO Diforte.*

Memo Book

According to his memo book, PO Randlov arrested § 87(2)(b) and § 87(2)(b) at 3:20 a.m. inside § 87(2)(b). At 3:30 a.m., PO Randlov arrested § 87(2)(b) and § 87(2)(b) in front of this location (Encl. 14A-C).

CCRB Testimony

PO Matthew Randlov was interviewed at the CCRB on October 28, 2014 (Encl. 14P-Q). At 2:54 a.m. on March 16, 2014, PO Randlov’s partner, PO Diforte, arrested an individual for disorderly conduct at East 53rd Street and 2nd Avenue, in Manhattan. They transported this individual to the 17th Precinct stationhouse at 2:59 a.m. When they arrived at the stationhouse, PO Randlov saw four individuals, § 87(2)(b) and § 87(2)(b) standing near the T/S operator’s desk. PO Randlov did not interact with these individuals at this time, but he later learned that they were at the stationhouse to obtain information about an acquaintance who had been arrested. The individuals became increasingly disorderly and multiple officers, including PO Randlov, told them to leave the stationhouse. PO Randlov did not hear PO Diforte tell them to “leave this fucking house.”

§ 87(2)(b) and § 87(2)(b) refused to exit the stationhouse when ordered to do so by the officers. Multiple officers then handcuffed § 87(2)(b) and § 87(2)(b). PO Randlov did not participate in these arrests because he was still holding the man he had arrested earlier in the night. PO Randlov did not recall if Lt. Joseph Tompkins was present at this time and he did not see Lt. Tompkins kick § 87(2)(b) at any time. PO Randlov processed the man he had arrested earlier and lodged him in a holding cell in the back of the stationhouse.

He then went to the sidewalk in front of the stationhouse to arrest § 87(2)(b) and § 87(2)(b). PO Randlov was accompanied by one other unidentified officer and placed these individuals under arrest. PO Randlov brought § 87(2)(b) and § 87(2)(b) inside the stationhouse and lodged them in holding cells. PO Randlov did not recall if he had any additional interactions with these individuals. He did not hear PO Diforte tell § 87(2)(b) to “shut the fuck up,” refer to him as a “fucking spic,” or ask if he was “fucking stupid” or “fucking retarded.”

Witness Officer: PO ROBERT ADMIRAND

- *PO Admirand, § 87(2)(b) old at the time of the incident, is a 6'2", 190 pound white male with brown hair and hazel eyes.*
- *PO Admirand worked from 8:00 p.m. on March 15, 2014 until 4:35 a.m. the following day. He was assigned to the bar detail with PO Daniel Ianas. PO Admirand was in uniform and on foot.*

Memo Book

At 2:55 a.m., PO Admirand arrested § 87(2)(b) at 53rd Street and 2nd Avenue (Encl. 15A-C).

CCRB Testimony

PO Robert Admirand was interviewed at the CCRB on October 28, 2014 (Encl. 15G-H). At 2:55 a.m. on March 16, 2014, PO Admirand arrested § 87(2)(b) for possession of marijuana at East 53rd Street and 2nd Avenue, in Manhattan. While making this arrest, PO Admirand spoke to § 87(2)(b) who asked for information about § 87(2)(b) status. PO Admirand told § 87(2)(b) that she would have to go to the 17th Precinct stationhouse for details on § 87(2)(b) arrest.

PO Admirand then went to the 17th Precinct stationhouse and processed § 87(2)(b) arrest. His partner, PO Ianas, remained at their footpost and did not return to the stationhouse. § 87(2)(b) and § 87(2)(b) arrived approximately three minutes later and inquired after § 87(2)(b). PO Admirand did not interact with these individuals at this time because he was focused on lodging § 87(2)(b). When he returned from the holding cells, several officers told § 87(2)(b) acquaintances to leave the stationhouse. PO Admirand did not hear PO Diforte tell them to “leave this fucking house.”

The individuals refused to leave the precinct and § 87(2)(b) positioned herself in front of stationhouse entrance to prevent anyone from entering or exiting the building. PO Admirand left the front area of the stationhouse and did not see how officers responded to these actions. PO Admirand did not see officers arrest § 87(2)(b) and § 87(2)(b). He did not see any officer kick § 87(2)(b) in the ribs. PO Admirand later saw all four of the individuals inside the precinct holding cells. He did not hear PO Diforte tell § 87(2)(b) to “shut the fuck up,” refer to him as a “fucking spic,” or ask if he was “fucking stupid” or “fucking retarded.”

Witness Officer: PO MICHAEL MCINTOSH

- *PO McIntosh, § 87(2)(b) old at the time of the incident, is a 5'10", 220 pound black male with brown hair and brown eyes.*
- *PO McIntosh worked from 11:15 p.m. on March 15, 2014 until 7:38 a.m. the following day. He was the T/S Operator and did not have a partner. PO McIntosh was in uniform and was not assigned a motor vehicle.*

Memo Book

Because he was assigned to administrative duties, PO McIntosh was not required to prepare a memo book on this date.

CCRB Testimony

PO Michael McIntosh was interviewed at the CCRB on October 29, 2014 (Encl. 16C-D). At approximately 2:00 a.m. on March 16, 2014, PO McIntosh was working as the T/S Operator inside the 17th Precinct Stationhouse, in Manhattan. Four individuals came to the stationhouse and were arrested. PO McIntosh did not recall why these individuals were arrested. He did not recall observing any arrests made inside the stationhouse itself. However, PO McIntosh saw an unidentified officer arrest a female on the street outside the precinct. PO McIntosh went outside to assist but she was already handcuffed by the time he arrived and he did not have any direct contact with her. This was the only time that PO McIntosh left his desk during the incident.

PO McIntosh did not recognize § 87(2)(b) or § 87(2)(b) when shown their photographs. PO McIntosh did not recall if PO Diforte told these individuals to “leave this fucking house.” PO McIntosh did not see Lt. Tompkins kick any civilians in the ribs during the arrest. PO McIntosh did not recall if PO Diforte told § 87(2)(b) to “shut the fuck up,” refer to him as a “fucking spic,” or ask if he was “fucking retarded” or “fucking stupid.”

Command Log

The command log does not note any injuries for § 87(2)(b) or § 87(2)(b). The command log indicates that § 87(2)(b) was arrested at 3:20 a.m. and § 87(2)(b) and § 87(2)(b) were arrested at 3:45 a.m. (Encl. 18P-Q).

Summons/Arrest for Incident and Disposition

- As of November 7, 2014, the eCourts Database reveals no information for § 87(2)(b) and § 87(2)(b) regarding this incident (Encl. 19N-Q).

Status of Civil Proceedings

- § 87(2)(b) and § 87(2)(b) have not filed a notice of claim with the City of New York as of August 20, 2014 with regard to the incident (Encl. 19R).

Civilian(s) Criminal History

- As of November 7, 2014, the eCourts online database reveals no criminal convictions for § 87(2)(b) and § 87(2)(b) (Encl. 19N-Q).

Civilian(s) CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) or § 87(2)(b) (Encl. 4A, 5A, 6A, 7A).

Subject Officer(s) CCRB History

- Lt. Joseph Tompkins has been a member of the service for 9 years and there is one substantiated CCRB case against him: Case 201115573. In this case, threat of arrest and refusal to process civilian complaint allegations were substantiated. No disciplinary actions were taken (Encl. 2A).

- PO Vincent Diforte has been a member of service for 8 years and there are no substantiated CCRB allegations against him (Encl. 3A).

Conclusion

Identification of Subject Officer(s)

§ 87(2)(b) described the officer who spoke discourteously and used offensive language as a 5'5", white male in his thirties with dark, curly hair. This officer was in uniform and had three stripes across his forearm. § 87(2)(b) appeared at the CCRB for a photo viewing on November 25, 2014 and identified PO Vincent Diforte as this subject officer. PO Diforte, § 87(2)(b) old at the times of the incident, is a 5'7", 190 pound white male with wavy brown hair, matching § 87(2)(b)'s description. § 87(2)(g)

§ 87(2)(b) described the officer who kicked § 87(2)(b) as a 50 year old, 6'1", 250 pound male, dressed in a uniform with a white shirt. This was the only officer wearing a white uniform during the incident. § 87(2)(b) identified this officer as Lt. Tompkins through the Criminal Court Complaint provided to her by her attorney. Lt. Joseph Tompkins, § 87(2)(b) old at the time of the incident, is a 6'1", 350 pound white male with blond hair and blue eyes. § 87(2)(g)

Allegations Not Pleaded

A second discourtesy allegation has not been pleaded against PO Diforte. Though he was alleged to have told § 87(2)(b) to "shut the fuck up," referred to him as a "fucking spic," and ask if he was "fucking stupid" or "fucking retarded," the profanity was subsumed within the more serious remark. Therefore, only an offensive language allegation has been pleaded.

Investigative Findings and Recommendations

Allegation A: Discourtesy – PO Vincent Diforte spoke discourteously to § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) In her CCRB statement, § 87(2)(b) alleged that PO Diforte told her, § 87(2)(b) and § 87(2)(b) to "leave this fucking house." § 87(2)(b) did not mention this allegation in her testimony. PO Diforte testified that he did not recall whether he made this remark. In their CCRB testimonies, Lt. Tompkins, PO Randlov, PO Admirand, PO McIntosh, and PO Park all stated that they did not hear PO Diforte use the alleged profanity. § 87(2)(g)

Allegation B: Force – Lt. Joseph Tompkins used physical force against § 87(2)(b)

It is undisputed that Lt. Tompkins kicked § 87(2)(b) near the time that he was arrested. § 87(2)(b) stated that Lt. Tompkins arrived on the scene after other officers had already taken § 87(2)(b) to the ground and placed him in handcuffs. § 87(2)(b) alleged that Lt. Tompkins then kicked § 87(2)(b) in the right ribs one time before lifting him up and taking him inside the

precinct stationhouse. § 87(2)(b) himself did not appear at the CCRB to provide testimony regarding this incident.

In his CCRB interview, Lt. Tompkins stated that § 87(2)(b) and PO Diforte were engaged in a struggle on the street when he first saw them. § 87(2)(b) was sitting on top of PO Diforte with his hands pushed down towards PO Diforte, who held § 87(2)(b) by the wrists. Lt. Tompkins stated that he kicked § 87(2)(b) one time in the chest in order to get him off PO Diforte. The kick caused § 87(2)(b) to fall backwards, onto the street, and he was then handcuffed.

PO Diforte testified that he and § 87(2)(b) were engaged in a struggle on the street prior to § 87(2)(b)'s arrest. He stated other officers, including Lt. Tompkins, assisted in § 87(2)(b)'s arrest. However, he did not see Lt. Tompkins or any other officer kick § 87(2)(b) during the incident. None of the other officers interviewed recalled the circumstances leading up to § 87(2)(b)'s arrest and did not observe Lt. Tompkins kick him.

Lt. Tompkins and PO Diforte both testified that PO Diforte and § 87(2)(b) fought before § 87(2)(b) was handcuffed. Lt. Tompkins stated that he kicked § 87(2)(b) as a means of getting him away from PO Diforte and securing his arrest. In this instance, the kick would have been justified to ensure PO Diforte's safety and respond to § 87(2)(b)'s resistance. However, § 87(2)(b) alleged that Lt. Tompkins kicked § 87(2)(b) after he was on the ground and was already handcuffed. In this case, Lt. Tompkins' use of force would have been unnecessary and excessive. PO Diforte's statement did not provide sufficient clarity between the two statements. Ultimately, the investigation could not determine whether the kick occurred before or after § 87(2)(b) was handcuffed in the absence of testimony from § 87(2)(b) himself.

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

Allegation C: Offensive Language – PO Vincent Diforte made remarks to § 87(2)(b) based on ethnicity.

In her CCRB statement, § 87(2)(b) alleged that PO Diforte referred to § 87(2)(b) as a “fucking spic.” § 87(2)(b) did not mention this allegation in her testimony. In his CCRB testimony, PO Diforte denied making this remark. Lt. Tompkins, PO Randlov, PO Admirand, PO McIntosh, and PO Park all stated that they did not hear PO Diforte use this offensive language.

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Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
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